

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33895-2022
Date of Decision: 03.08.2022

Sandeep Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. J.K. Singla, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No. 80 dated 05.05.2022, under Sections 22 and 29 of NDPS Act, registered at Police Station Bhikhi, District Mansa.

The learned counsel for the petitioner has submitted that in the present case the petitioner has been falsely implicated and even otherwise he has been nominated on the basis of disclosure statement of a co-accused namely Buta Singh from whom there was a recovery of 250 tablets of Tramatrast TM SR-100 which falls in non-commercial quantity under the NDPS Act and therefore, the petitioner may be considered for the grant of anticipatory bail.

On the other hand, Mr. Davinder Bir Singh, learned Deputy Advocate General, Punjab has stated on instructions from SI Mewa Singh that the petitioner has not come to this Court with clean hands and he has actively and deliberately concealed material facts from this Court. He further

submitted that in para No.10 of the petition he has stated that the petitioner is not involved in any other case whereas in fact the petitioner is involved in another FIR No.83 dated 01.07.2019, under Section 22 and 25 of NDPS Act, Police Station Bhikhi, District Mansa in which he is under trial and therefore, he does not deserve the concession of anticipatory bail. He further referred to the judgment of the Hon'ble Supreme Court in ***State of Haryana Versus Samarth Kumar [Criminal Appeal No.1005 of 2022]*** to contend that the mere fact that the petitioner was nominated on the basis of disclosure statement cannot become a relevant factor for considering the grant of anticipatory bail as the same may be a ground to be considered at the time of regular bail. He further submitted that the source of the contraband needs to be ascertained and for that purpose the custodial interrogation of the petitioner is required especially when he is not having clean antecedents and is also involved in one other case under the NDPS Act.

I have heard the learned counsel for the parties.

The name of the petitioner was nominated on the basis of disclosure statement of a co-accused. Although the alleged quantity recovered from the co-accused was not commercial quantity but that itself cannot vest any right in the petitioner for grant of anticipatory bail when there are other factors which are to be considered. Firstly, the petitioner has not come to the Court with clean hands. Para No.10 of the petition is reproduced as under:-

“10. That except present case against the petitioner there is no other case/FIR under NDPS Act is pending or ever registered or ever been convicted under NDPS Act as per information given by petitioner to undersigned counsel”

This petition is also supported by an affidavit of the petitioner which is duly notarized and is at page No.7 of the paper-book. It appears that the petitioner therefore, has deliberately concealed material facts from this Court that he is not involved in any other case but as per the learned State counsel he is involved in another FIR description of the same has been stated above.

Secondly, Hon'ble Supreme Court in *State of Haryana Versus Samarth Kumar (Supra)* observed that for the purpose of considering the grant of anticipatory bail the mere fact that the name of the accused was nominated on the basis of disclosure statement of a co-accused would not be relevant factor but the same can be relevant factor for the purpose of considering the regular bail. Thirdly, the objection and reasoning made by the learned counsel for the State that for the purpose of ascertaining the source of the contraband the custodial interrogation of the petitioner is required especially in view of the fact that he is also involved in another case does carry weight.

In view of the aforesaid facts and circumstances, this Court is of the view that the petitioner does not deserve grant of anticipatory bail.

Consequently, the present petition is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

03.08.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)

JUDGE

: Yes/No
: Yes/No